

**K.A.R. 28-19-350 PREVENTION OF SIGNIFICANT DETERIORATION
OF AIR QUALITY**

(a) The requirements of this regulation shall apply to the construction of major stationary sources and major modifications of stationary sources as defined in 40 C.F.R 52.21 in areas of the state designated as attainment areas or unclassified areas for any pollutant under the procedures prescribed by section 107(d) of the federal clean air act, 42 U.S.C. 7407(d).

(b) 40 C.F.R 52.21, as in effect on July 1, 2000, is adopted by reference except for the following subsections:

- (1) 52.21(a);
- (2) 52.21(f);
- (3) 52.21(h);
- (4) 52.21(m) (1) (v);
- (5) 52.21(q);
- (6) 52.21(s);
- (7) 52.21(t);
- (8) 52.21(u); and
- (9) 52.21(w).

(c) When used in any provision adopted from 40 C.F.R 52.21, each reference to "administrator " shall mean the "secretary of health and environment or an authorized representative of the secretary," except for the following:

(1) In subsections 52.21(b)(3)(iii) and 52.21(p)(2), "administrator" shall mean both the "secretary of health and environment" and the "administrator of the U.S. environmental protection agency."

(2) In subsections 52.21(b)(17), 52.21(b)(37)(i), and 52.21(l)(2), "administrator" shall mean only the "administrator of the U.S. environmental protection agency."

(d) Any reference within an adopted provision of 40 C.F.R. 52.21 to any other federal regulation shall not be considered an adoption by reference of that federal regulation if that federal regulation has not been specifically adopted in this regulation.

(e) For the purposes of this regulation, the following definitions shall apply:

(1) "Act" shall mean the federal clean air act, 42 U.S.C. 7401 et seq.

(2) "Class I, II or III area" shall mean a classification assigned to any area of the state under the provisions of sections 162 and 164 of the act, 42 U.S.C. 7472 and 7474, and amendments thereto.

(3) "State" shall mean the state of Kansas.

(f) In relation to ambient air ceilings, the following requirements shall apply:

(1) Except as stated in paragraph (f)(2) of this regulation, a permit shall not be issued for any new major stationary source or major modification as defined in 40 C.F.R 52.21(b) if the source or modification will be located in an attainment area or an unclassifiable area for any national ambient air quality standard and if the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major source or major modification shall be considered to cause or contribute to a violation of a national ambient air quality standard if the air quality impact of the source or modification would exceed the following levels at any locality that does not or would not meet the applicable national standard:

Averaging Time					
Pollutant	Annual	24 hrs.	8 hrs.	3 hrs.	1 hr.
Sulphur dioxide	1.0 : g/m ³	5 : g/m ³	-----	25 : g/m ³	-----
PM ₁₀	1.0 : g/m ³	5 : g/m ³	-----	-----	-----
Nitrogen dioxide	1.0 : g/m ³	-----	-----	-----	-----
Carbon monoxide	-----	-----	0.5 mg/m ³	-----	2 mg/m ³

(2) A permit may be granted for a major source or major modification as identified in paragraph (f)(1) of this regulation if the impact of the major source's or major modification's emissions upon air quality is reduced by a sufficient amount to

compensate for any adverse impact at the location where the major source or modification would otherwise cause or contribute to a violation of any national ambient air quality standard. Subsection (f) of this regulation shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area that has been identified as not meeting either the national primary or secondary ambient air quality standard for that particular pollutant.

(g) K.A.R. 28-19-18 through K.A.R. 28-19-18f, regarding stack height requirements, shall apply to sources subject to this regulation.

(h) Each application for a permit shall be submitted on the form or forms provided by the department.

(i) If the emissions from any proposed major stationary source or major modification subject to this regulation will affect any federal class I area, a copy of the permit application for the source or modification shall be immediately transmitted by the secretary or an authorized representative of the secretary to the administrator of the U.S. environmental protection agency through the appropriate regional office. The administrator, through the appropriate regional office, shall also be notified of every action taken concerning this application.

(j) Any permit issued under this regulation may be suspended or revoked by the secretary upon a finding that the owner or operator has failed to comply with any requirement specified in the permit or with any other statutory or regulatory requirement. This subsection shall not be interpreted to preclude any other remedy provided by law to the secretary.

(k) In addition to the requirements of K.A.R. 28-19-204, the following public participation requirements shall be met before issuance of the permit:

(1) The public notice shall state the portion of the applicable maximum allowable increment that is expected to be consumed by the source or modification.

(2) A copy of the public notice shall be mailed to the following:

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(A) The applicant;

(B) the administrator of the U.S. environmental protection agency through the appropriate regional office;

(C) any state or local air pollution control agency having jurisdiction in the air quality control region in which the new or modified installation will be located;

(D) the chief executives of the city and county where the source is to be located;

(E) any comprehensive regional land use planning agency having jurisdiction where the source is to be located; and

(F) any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the new construction or modification.

(3) In addition to those materials required to be available for public review at the appropriate district office or local agency, a summary analysis and discussion of those materials as they relate to establishing compliance with the requirements of this regulation shall be made available for public review.

(4) Copies of all comments received and the written determination of the secretary shall be made available for public inspection at the appropriate district office or local agency.
(Authorized by K.S.A. 2001 Supp. 65-3005; implementing K.S.A. 2001 Supp. 65-3008; effective November 22, 2002.)

EPA Rulemakings

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APDB File: KS-42

Description: EPA approved a new regulation on Prevention of Significant Deterioration of Air Quality regulations. Because of the new rule, K.A.R. 28-19-17a through 28-19-17q have been rescinded.

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Difference Between the State and EPA-Approved Regulation

In Section 52.884 - Significant deterioration of air quality, the EPA retains PSD permit authority for Indian lands in the state of Kansas.